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Chief Justice Shepard Describes Evolving Courts System

As required by Indiana's Constitution, Chief Justice Randall T. Shepard reported to the Indiana General Assembly on the "state of the judiciary" on January 16, 2002. Here is an excerpted version of his address. If you wish to receive this in electronic form, contact dremondi@courts.state.in.us

"The Changing Nature of Courts"

Our court system is a very different place than it was even twenty years ago. There has been a remarkable transformation in the way courts function. They perform their traditional roles, but their connection to the community is more meaningful than ever. This is especially true in four areas: criminal justice, families, access to justice, and court institution-building.

An Actual System of Criminal Justice

Judges used to have the choice between sentencing someone to either prison or probation. That used to be enough. The smartest sentence, though, is the one that prevents a future crime. Sometimes a prison term works, but usually another sentence can be as effective. Today, in counties where 80 percent of Hoosiers live, drug and alcohol officers conduct assessments that help judges craft effective sentencing and treatment programs. Another form of effective sentencing takes place in Indiana's twenty drug courts. In drug rehabilitation, people with a chance to rehabilitate perform best when the threat of sanction is close at hand. Our



drug courts make sure those who stray from treatment are dealt with swiftly. Marion County is trying new forms of criminal justice in its new community court. Justice there is swift, local, and well-measured. In the past, we neglected minor offenses to save resources for major crimes. But in community court, petty criminals work off their sentences by immediately rebuilding the neighborhoods they damage or offend.

Fort Wayne officials believe their new "Re-entry Court" can also reduce crime when offenders return from incarceration. Their system of covering re-entering felons with temporary housing, job placement, and mentoring has drawn national attention.

Engaged in the Lives of Families

The courts' role in the problems of families has been changing since 1903 when we became the second state to create juvenile courts. One important change is the addition of court-appointed special advocates. Last year, these 1,630 volunteers spoke up in court on behalf of 11,000 children. No state has more programs than Indiana.

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State of the Judiciary (continued from page 1)

With the most troubled children, Indiana used to illegally lock them up with adults in county jails. This had to stop. Today, we have eliminated 99% of those violations, and we have created more effective alternatives by building new specialized, secure facilities. It is a change to be proud of. For other families and children, we can also be proud of our Family Courts Pilot Project, which helps troubled families navigate a sometimes confusing court system.

Access to Courts Is Access to Justice

We hear and decide 1.6 million cases a year and we have worked hard to make sure people have access to this system to resolve their disputes. One way is unique in the nation. The Indiana Pro Bono Commission recently awarded \$300,000 to local groups – led by judges and bar leaders – that are encouraging thousands of lawyer volunteers to help people too poor to hire attorneys.

Those who go to court without lawyers are also getting our help. A new project for un-represented people, led by Greene Circuit Judge David Holt, puts selected domestic relations legal forms on our Internet site, always with the advice that some cases really require a lawyer. Since October, some 6,000 people have

clicked into the “Self-Service Legal Center.”

We are also using the Internet to help educate people about their judiciary. We now “webcast” sessions from our appellate courts. For Indiana’s 300,000 high school students, we have created detailed on-line lesson plans to use with the webcasts.

Judges Organized for Reform

To effect statewide change, we rely on local decision-making and committees of the Indiana Judicial Conference, which includes all our judges. The Domestic Relations Committee has devised the new Parenting-Time Guidelines, designed to improve the role non-custodial parents play with their children. The Judicial Technology and Automation Committee put e-mail and electronic legal research into every court. Our Protective Order Committee has fashioned far-reaching proposals to help reduce domestic violence. And our new Commission on Race and Gender Fairness held eight field hearings, including one in Spanish.

We have enhanced the quality of our organization and our leadership that has produced these important new programs for two

reasons. First, our citizens need to know their court system is not a place where the left hand does not know what the right hand is doing. Second, the executive and legislative branches have to know the judiciary is capable of acting as a strong partner.

Why Do We Act?

Finally, why do we push ahead on these tasks? All Americans have considered this kind of question recently and it has become clear we all need to do *something* to improve our society.

And the something that judges can do is work with more energy, skillfulness, and humanity to build on that remarkable, resilient pillar of American society, the rule of law — justice rendered freely and impartially and fully. Our acts are aimed at building a more just society, correcting wrongs, healing families, giving a second chance to those who deserve it, and holding accountable those who do not.

In short, the people in the courts “do something” by making America a more decent, safe, and prosperous society. As our security forces wage war overseas in defense of our nation, our role is to make it a nation worth defending. And we will.

O'Bannon Appoints Coleman to Head Bureau of Motor Vehicles

Indiana's trial courts and court staff work with the Indiana Bureau of Motor Vehicles on a daily basis. Beginning January 6, 2002, the Bureau of Motor Vehicles has a new commissioner.

Governor Frank O'Bannon has appointed Assistant Health Commissioner Gerald Coleman to be commissioner of the Bureau of Motor Vehicles.

Coleman, a lawyer and a registered nurse who has worked in state government since 1994, replaces Gary Gibson, who has resigned to take a position in the private sector.

Since 1997, Coleman has been assistant commissioner for health care regulatory services, a position in the State Department of Health in which he oversees 300 employees who work in the long-term care, acute care and consumer protection divisions. He previously served as the health department's director of risk management; practiced as a private attorney in medical malpractice defense litigation with Ice Miller Donadio & Ryan; and worked as a nurse in Washington D.C. and Oregon.

Coleman earned a law degree from Howard University and bachelor's and associate's degrees from Walla Walla College.

"Gerald's experience in overseeing three divisions at the Department of Health will behoove him – and all the people of the state of Indiana – when he takes over the Bureau of Motor Vehicles," O'Bannon said. "It's a complex job – working with license branches in every county of the state – but Gerald has shown the organizational and people skills necessary to handle it deftly."

Coleman said he was pleased to have this new opportunity.

"In each of my previous positions, my goal was to provide good service to the customer or client," he said. "In that sense, nothing has changed. But I'm excited to have this opportunity to stretch my wings and try something new."

"The BMV has made enormous strides in the last few years in providing excellent service to its customers. My goal will be to use both technology and helpful employees to make our services as user-friendly as possible."

Library Management—SJI Publications

The following titles are new in the Indiana Supreme Court Law Library in its capacity as a repository for State Justice Institute grant products. This list continues the columns published in previous issues of Indiana Court Times. SJI publications can be borrowed from the library by calling (317) 232-2557.

1. Communicating With Voters: Ethics and Judicial Campaign Speech, Chicago: American Judicature Society, 2000. KF 8776 .G73 2000.
2. Understanding Sexual Violence: The Judge's Role in Stranger and Nonstranger Rape and Sexual Assault Cases, New York: National Judicial Education Program, 2001. KF 9329 .Z9 U931 2001.
3. General Jurisdiction: A Curriculum for New Judges, Reno: The National Judicial College, 2000. KF 276 .A75 G4 2000.
4. General Jurisdiction Advanced: A Curriculum for Experienced Judges, Reno: The National Judicial College, 2000. KF 276 .A75 G44 2000.
5. An Ethics Guide for Judges & Their Families, Chicago: American Judicature Society, 2001. KF 8779 .Z9 G734 2001.
6. Enhancing Coordination of State Courts with the Federal Representative Payment Program, Chicago: American Bar Association, 2001. KF 3649 .M622 2001.
7. Voice Recognition & Realtime Technologies for Stenomask Court Reporting, Jefferson City, MO.: Missouri Office of State Courts Administrator, 2000. KFM 8326 .C68 V6 2000.
8. Juvenile Delinquency & The Courts Conference 2001, San Diego: State Justice Institute, 2001. KFC 1196 .Z9 J88 2001.
9. New Mexico Domestic Violence Benchbook, Albuquerque, NM.: New Mexico Judicial Education Center, 2001. KFN 4167 .F35 N49 2001.
10. The State Economic, Demographic, & Fiscal Handbook 2000, U.S.: Public Policy Institute, 2000. HB 1531 .B33 2000.
11. Mediated Child Protection Conferencing in Criminal and Civil Child Abuse and Neglect Cases, Denver, CO.: Center for Public Policy Studies, 2001. KFW 2967.C5 M4 2001.
12. Effective Management of Child Neglect Cases Involving Substance Abuse Final Report April 30, 2001, San Francisco, CA.: Center for Families, Children, & the Courts, 2001. KFC 1121.5 .E33 2001.

Overwhelming Response to Notice of JTAC Contracting Opportunities

Indianapolis, IN, January 25, 2002 - The Indiana Division of State Court Administration has received an overwhelming response from a long list of information technology companies to a Public Notice of Contracting Opportunities for a 21st century cases management system (CMS) and related technologies, Division Executive Director Lilia Judson announced today.

"We are extremely pleased with the number of responses and, particularly, with the caliber and reputations of the companies that have submitted proposals," Judson said.

More than 30 vendors have submitted proposals detailing plans for improving Indiana's court technology, including the implementation of a comprehensive state-wide case management system.

The Division of State Court Administration solicited the proposals on behalf of the Indiana Supreme Court Judicial Technology and Automation Committee (JTAC), which has as one of its primary goals equipping all Indiana trial courts with a comprehensive case management system. JTAC believes that having a comprehensive case management system in each trial court, will allow Indiana trial courts and court clerks to manage their caseloads faster and more cost-effectively; provide users of Indiana trial court information, notably law enforcement agencies, state policy makers, and the public, with more timely, accurate and comprehensive information; and reduce the cost of trial court operations borne by Indiana counties.

According to Kurt Snyder, Director and Coun-

sel of Trial Court Technology, the staff of the Division of State Court Administration is reviewing the

proposals. However, he said that because of the unanticipated substantial volume of the materials, the review process would likely take more time than originally anticipated. The Division and JTAC will periodically report on the timetable for review. Neither the Division nor JTAC is obligated to award any contract in response to the

proposal, and actual award of any contract will depend upon the availability of adequate funding.

About JTAC

In order to develop a uniform policy on implementation of information technology by the Indiana judicial system, the Supreme Court of Indiana in 1999 established a Judicial Technology and Automation Committee (JTAC), comprised of nine Indiana judges and chaired by Justice Frank Sullivan, Jr. The primary role of JTAC is to provide leadership and guidance, including advisory oversight of state budget requests regarding the use of technology in the courts, in an effort to serve the people of Indiana better. For more information, please visit www.IN.gov/judiciary.



Ask Jack

(Each issue, Jack Stark, Director of Trial Court Services, will answer reader questions concerning matters of court administration or general reader interest. Should no interesting questions be presented, Jack will make up a question and answer it! Anyone with a question is invited to send it to Jack Stark, Division of State Court Administration, 115 West Washington Street, Suite 1080, Indianapolis, Indiana 46204, or e-mail it to jstark@courts.state.in.us.)



Jack, does a filing fee have to be paid in order for a civil case to be deemed “filed”?

Answer: It sure does. In *Boostrom vs Bach*, 622 N.E.2d 175 (Ind. 1993), Boostrom tendered a complaint to the small claims court clerk, but failed to remit the prescribed filing fee. The Indiana Supreme Court held that the statute of limitations continued to run even though the complaint had been tendered (Albeit *sans* filing fee). In so concluding, the Court noted that Ind.Small Claims Rule 2(A), the analogue to Ind.Trial Rule 3, provided that an action is commenced “by the filing of an unverified notice of claim in a court of competent jurisdiction (the trial rule currently provides that an action is commenced “by filing a complaint with the court or such equivalent pleading or document as may be specified by statute”). The Court also noted that requiring payment of the filing fee as a required condition of “filing” helped insure that parties are given formal and seasonable notice that a claim is being asserted against them, since the costs portion of the fee includes the cost of initiating service. *Boostrom* at 176.

Boostrom’s holding now has been incorporated into the Rules of Trial Procedure. Trial Rule 3, effective April 1, 2002, will provide that, “A civil action is commenced by filing with the court a complaint or such equivalent pleading or document as may be specified by statute, *by payment of the prescribed filing fee or filing an order waiving the filing fee, and, where service of process is required, by furnishing to the clerk as many copies of the complaint and summons as are necessary.* (Jack’s emphasis).

The “service of process” requirement also reflects a recent Indiana Supreme Court holding. See *Ray-Hayes vs. Heinemann, et al.*, 760 N.E.2d 172 (Ind., January 2, 2002) (holding that failure to tender to the trial court clerk a summons along with the complaint does not commence action). But that is a story for another day...

Counties Seek to Change Local Rules for Transcript Preparation

On January 1, 2001 the new Indiana Rules of Appellate Procedure went into effect. These rules altered how appellate transcripts are prepared. The cost for a transcript is governed by local (county) rules promulgated pursuant to Administrative Rule 15. As a result of the new appellate rules, a number of counties submitted requests to the Supreme Court asking to amend their local rules relating to transcript preparation.

On March 29, 2001 the Court issued an order taking under advisement all requests for amendments to local rules passed pursuant to Administrative Rule 15. Additionally, that order sought guidance concerning the wide variety of proposed changes to the local rules from a variety of sources, including the Appellate Section of the Indiana Bar Association, the Supreme Court Committee on Rules of Practice and Procedure, and the Indiana Association of Counties, and any other interested individuals or groups. The Court also requested documentation from the trial court judges relating to this issue.

In reviewing the materials, the Court recognized the extraordinarily valuable contributions that Indiana court reporters make to our system of justice. The Court recognized that the new appellate rules impose new obligations and responsibilities on court reporters with respect to preparing trial transcripts. In particular, the new rules require more text per page; that court reporters prepare tables of contents and marginal notations; and that court reporters bind and otherwise prepare the transcript for submission. The Court noted that court reporters may, depending upon their arrangements with the counties in courts that they serve,

be entitled to additional payment for these new obligations and responsibilities. In particular, the Court feels that a minimum transcript fee, an increase in the per page fee and payment for binding may be appropriate. The Court concluded, however, that the additional obligations and responsibilities with respect to the preparation of tables of contents and marginal notations are matters readily accommodated by word processing computer programs. To the extent that court reporters need or desire training in the use of word processing computer programs, such training is available at local campuses of Ivy Tech State College at the expense of the Court's Judicial Technology Automation Committee (JTAC). Information on this training program is available from the Division of State Court Administration. Inquiries about this program should be directed to Kurt Snyder or Mary Kronoshek at 317.232.2542.

The Chief Justice directed the Division of State Court Administration to review the local rule submissions relating to transcript preparation pursuant to the following guidelines:

♦ 1. Rate increases of up to \$0.50 per page of any existing page rate are justifiable based upon the increased work product obligations;

♦ 2. A minimum fee up to \$35.00 per transcript is permissible (this minimum fee is for small transcripts and is not to be used in addition to the per page fee);

♦ 3. Index and Table of Contents pages should be charged at the per page rate being changed for the rest of the transcript;

♦ 4. An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for the time spent binding the transcript and the exhibit binders;

♦ 5. A reasonable charge for the office supplies required and utilized for the binding and electronic transmission of the Transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29, is permissible; the costs for these supplies should be determined pursuant to a Schedule of Transcript Supplies which should be established and published annually by the judge or judges of the county.

Questions relating to these guidelines and the process necessary for the amendment of a local rule passed pursuant to Administrative Rule 15 should be directed to Linda Loepker at 317.232.2542 or e-mail lloepker@courts.state.in.us

Information Management

Proposed Protective Order Reform Before General Assembly

Chief Justice Randall T. Shepard endorsed legislation sponsored by the Indiana Protective Order Committee in his State of the Judiciary Speech as a much-needed reform. The bill developed by the committee, called the Indiana Civil Protective Order Act, is being considered by the Indiana General Assembly in House Bill 1232.



The purpose of the proposed legislation is to streamline and consolidate the *Indiana Code's* many references to "protective orders;" to rewrite a single civil protective order act enhancing relief to people affected by domestic or family violence; to be consistent with recent federal mandates, such as the Violence Against Women Acts I and II; and to use the Model Code on Domestic and Family Violence as the paradigm for this statutory reform. The legislation that has been developed by the committee is now before the 2002 session of the Indiana General Assembly for its consideration. Specifically, the bill provides that:

- ◆ Protective Orders will be limited to situations involving domestic or family violence;
- ◆ Orders will last for two (2) years, or until otherwise specified by the court;
- ◆ Judges will have power to draft orders specific to each family in order to reduce the recurrence of violence and to protect all family members;
- ◆ Special processes for registering foreign orders will be eliminated. Foreign orders will be registered in the same manner as Indiana protective orders;
- ◆ Forms for civil protective orders will be standardized;
- ◆ There will be one central statute for all protective orders for domestic or family violence regardless of case type;
- ◆ Terminology and definitions pertaining to Pro-

TECTIVE Orders throughout the *Indiana Code* will be consistent;

- ◆ Standards involving family violence for custody and visitation matters will be consistent;
- ◆ Arrest for violations of protective and non-contact orders will be mandatory;
- ◆ Penalties for Invasion of Privacy will be increased;
- ◆ Trial Rule 65(E) will be modified in order to reconcile it with the new statutory framework; and
- ◆ "Workplace Violence Restraining Orders" to address problems associated with workplace violence not involving family or household members will be created.

The Protective Order Committee

The committee was established in 2000 by the Judicial Conference of Indiana at the request of Chief Justice Shepard to explore ways to improve the protective order process. The members of the committee are trial court judges and clerks of the circuit courts, assisted by staff from the Indiana Judicial Center and the Division of State Court Administration. The Honorable John Forcum, Judge of the Blackford Superior Court, chairs the committee. The Honorable Ruth Reichard, Senior Judge, serves as a consultant. Judge Reichard became a nationally-known expert in domestic violence and protection orders when she served as a judge on the Marion Superior Court.

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Our goal is to foster communications, respond to concerns, and contribute to the spirit and pride that encompasses the work of all members of the judiciary around the state. We welcome your comments, suggestions and news. If you have an article, advertisement, announcement, or particular issue you would like to see in our publication, please contact us.

If you would like to receive this newsletter via e-mail, or by accessing our website, please send a message to dguthrie@courts.state.in.us to have your name added to our electronic list and removed from our hardcopy mailing list.

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Please Circulate to Co-workers

This newsletter reports on important administrative matters. For future reference, add it to your Trial Court Administrative Manual.

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